

JPM

FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

07 OCT 16 AM 9:55

UNITED STATES OF AMERICA,

Plaintiff,

v.

Javier PONTAZA-Arrieta,

Defendant

Magistrate Docket No.

CLERK, U.S. DISTRICT COURT

07 MJ 2467

BY:

DEPUTY

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326

Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **October 15, 2007** within the Southern District of California, defendant, **Javier PONTAZA-Arrieta**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 16th DAY OF OCTOBER,
2007


 William McCurine, Jr.
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Javier PONTAZA-Arrieta


PROBABLE CAUSE STATEMENT

On October 15, 2007, Border Patrol Agent J. Gonzalez was assigned to the Imperial Beach Border Patrol Station area of operations. At approximately 12:45 A.M. the "East scope" infrared camera operator radioed a report of three persons running north from the International Boundary area in a location known to agents as The Elbow. This area is located approximately one and one-half miles west of the San Ysidro Port of Entry and 200 yards north of the International Boundary. Agent Gonzalez observed the three persons running north. One person surrendered to Agent Gonzalez immediately; Gonzalez determined the man to be an undocumented citizen of Mexico having made an illegal entry into the United States.


Agent Gonzalez resumed following the other two persons still running north into a neighborhood. One of the two running persons gave up and sat down. The remaining runner, later identified as the defendant **Javier PONTAZA-Arrieta**, had to be physically restrained by Agent Gonzalez to prevent his escape. The defendant then cooperated with Agent Gonzalez. Agent Gonzalez immediately identified himself as a United States Border Patrol Agent and conducted an immigration inspection. Both men, including the defendant freely admitted to being citizens and nationals of Mexico without documents that would allow them to enter or remain in the United States legally. Agent Gonzalez placed all three aliens under arrest and they were transported to the Imperial Beach Border Patrol Station for processing.

At the station, routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on July 27, 2007 through Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally.


William McCurine Jr.
U. S. Magistrate Judge

10/16/07
Date/Time


James Trombley
Senior Patrol Agent